NORFOLK-SOUTHERN RAILROAD COMPANY v. OWENS.

CERTIORARI TO THE SUPREME COURT OF THE STATE OF NORTH CAROLINA.

No. 223. Argued March 17, 1921.—Decided June 1, 1921.

A railroad corporation, while its road was under federal control, was not liable for a penalty prescribed by a state law, for delay in delivery of an intrastate shipment. *Missouri Pacific R. R. Co.* v. *Ault*, *ante*, 554.

178 N. Car. 325, reversed.

THE case is stated in the opinion.

Mr. W. B. Rodman, Jr., for petitioner.

No appearance for respondent.

MR. JUSTICE BRANDEIS delivered the opinion of the court.

This case comes here on writ of certiorari (251 U. S. 550) to the Supreme Court of North Carolina, which affirmed (178 N. Car. 325) a judgment of $21 against the Norfolk-Southern Railroad Company in favor of Owens, a shipper. The amount was assessed under a statute of the State as a penalty for undue delay in making delivery of an intrastate shipment made March 27, 1918. At that time the railroad was in the possession and control of the Government, and was being operated by the Director General under the Federal Control Act of March 21, 1918, c. 25, 40 Stat. 451. The only question presented for decision is whether the company was liable for the penalty. We are of opinion that it was not, for the reasons stated in *Missouri Pacific R. R. Co.* v. *Ault*, decided this day, *ante*, 554.

Reversed.